

APPEAL NO. 031642
FILED AUGUST 6, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 19, 2003. The hearing officer determined that the appellant (claimant) did not sustain a repetitive trauma injury while in the course and scope of employment; that because the claimant did not sustain a compensable injury, she did not have disability; that _____, was the date of injury pursuant to Section 408.007; and that the respondent (carrier) is not relieved from liability under Section 409.002, because the claimant timely notified her employer pursuant to Section 409.001. The claimant appealed the hearing officer's injury and disability determinations on sufficiency of the evidence grounds. The carrier responded, urging affirmance. The hearing officer's determinations regarding the date of injury and timely notice are unappealed and have become final. Section 410.169.

DECISION

Affirmed.

An occupational disease includes a repetitive trauma injury. Section 401.011(34). The claimant had the burden to prove that she sustained a repetitive trauma injury as defined by Section 401.011(36). Conflicting evidence was presented on the disputed issue of whether the claimant sustained a compensable repetitive trauma injury. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Although there is conflicting evidence in this case, we conclude that the hearing officer's compensability determination is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). Without a compensable injury, the claimant would not have disability as defined by Section 401.011(16).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **ZURICH AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**GEORGE MICHAEL JONES
9330 LBJ FREEWAY, SUITE 1200
DALLAS, TEXAS 75243.**

Chris Cowan
Appeals Judge

CONCUR:

Veronica Lopez-Ruberto
Appeals Judge

Michael B. McShane
Appeals Panel
Manager/Judge